

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Case No. 91,875-J)

PATENT

In application of:)	
)	
McBride and Dean)	Before the Examiner:
)	M. Hartley
Serial No. 08/253,973)	
)	Group Art Unit: 1211
Filed: June 3, 1994)	
)	
For: Monoamine, Diamide, Thiol-)	
containing Metal Chelating Agents)	

DECLARATION PURSUANT TO 37 C.F.R. 1.132

I, John Lister-James, a citizen of the United Kingdom, residing at 25 Old Stone Way, Bedford, New Hampshire 03110, declare:

1. I am the Senior Director of Research and Development of Diatide, Inc., the assignee of the above-identified patent application.

2. I have a Ph.D. in Organic Chemistry from the University of London (England), and extensive experience in all aspects of radiolabeling of proteins and peptides, particularly with regard to technetium-99m.

3. I have read and understood the above-identified patent application, the pending Official Action, including the references cited therein, and have also read and am familiar with the content of all of the references cited in the above-identified patent application.

4. Specifically, I have read the specification and claims of U.S. Patent 4,965,392, issued October 23, 1990 to Fritzberg *et al.*, and I have read the portions of the Official Action discussing the teachings of the Fritzberg patent.

5. In my opinion, the teachings of this reference would have been understood by one of ordinary skill in the art only in view of the teachings of the specification in its entirety.

6. In particular, it is my opinion that the teachings of the patent discussed in the Official Action would have been understood by the skilled worker in view of the further teachings found at column 8, lines 15-17 of the patent.

7. The relevant teachings are these: "The chelators are synthesized from tripeptides such as glycylglycylglycine and S-protected active esters of acetic acid."

8. I note that all of the exemplified compounds in the patent consist of triamide-protected thiol chelators, consistent with the explicitly disclosed method of preparing them to which I referred in paragraph 7 of this declaration.

9. Regarding the totality of the teachings of the Fritzberg reference, one of ordinary skill in the art would have understood this disclosure to teach N₃S chelators of the triamide-protected thiol class.

10. There are no teachings in the reference on how to make or use monoamine, diamide, thiol-containing chelators as disclosed in the Diatide patent application.

11. There are also no teachings in the Fritzberg reference that would have placed the worker of ordinary skill in the art with a reasonable expectation of success in making and using monoamine, diamide, thiol-containing chelators as disclosed in the Diatide patent application, nor are there any teachings in Fritzberg that would have motivated one of ordinary skill in the art to try such chelators.

I hereby declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signed

John Lister-James

Date: _____